

EMPLOYERS' REINSURANCE FUND AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions related to the Employers' Reinsurance Fund.

Highlighted Provisions:

This bill:

- ▶ provides that after the state pays all liabilities to be paid from the Employers' Reinsurance Fund, the Division of Finance shall transfer any remaining assets to the Uninsured Employers' Fund; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-206, as last amended by Laws of Utah 2018, Chapter 156

34A-2-701, as last amended by Laws of Utah 2009, Chapter 85

34A-2-702, as last amended by Laws of Utah 2018, Chapter 207

34A-2-704, as last amended by Laws of Utah 2018, Chapter 207

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34A-2-206** is amended to read:

34A-2-206. Furnishing information to division -- Employers' annual report --

Rights of division -- Examination of employers under oath -- Penalties.

(1) (a) Every employer shall furnish the division, upon request, all information required by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) In the month of July of each year every employer shall prepare and mail to the division a statement containing the following information:

(i) the number of persons employed during the preceding year from July 1, to June 30, inclusive;

(ii) the number of the persons employed at each kind of employment;

(iii) the scale of wages paid in each class of employment, showing the minimum and maximum wages paid; and

(iv) the aggregate amount of wages paid to all employees.

(2) (a) The information required under Subsection (1) shall be furnished in the form prescribed by the division.

(b) Every employer shall:

(i) answer fully and correctly all questions and give all the information sought by the division under Subsection (1); or

(ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good and sufficient reasons for the failure.

(3) (a) The division may require the information required to be furnished by this chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to the division within the period fixed by it or by law.

(b) The division, or any person employed by the division for that purpose, shall have the right to examine, under oath, any employer, or the employer's agents or employees, for the purpose of ascertaining any information that the employer is required by this chapter or Chapter 3, Utah Occupational Disease Act, to furnish to the division.

(4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the commission against an employer who:

(i) within a reasonable time to be fixed by the division and after the receipt of written notice signed by the director or the director's designee specifying the information demanded and served by certified mail or personal service, refuses to furnish to the division:

(A) the annual statement required by this section; or

(B) other information as may be required by the division under this section; or

(ii) willfully furnishes a false or untrue statement.

(b) All penalties collected under Subsection (4)(a) shall be paid into:

(i) the Employers' Reinsurance Fund created in Section 34A-2-702[-]; or

64 (ii) if the commissioner has made the notification described in Subsection
65 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

66 Section 2. Section **34A-2-701** is amended to read:

67 **34A-2-701. Premium assessment restricted account for safety.**

68 (1) There is created in the General Fund a restricted account known as the "Workplace
69 Safety Account."

70 (2) (a) An amount equal to 0.25% of the premium income remitted to the state
71 treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety
72 Account in the General Fund for use as provided in this section.

73 (b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account
74 exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

75 (i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1)[:]; or
76 (ii) if the commissioner has made the notification described in Subsection
77 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-702.

78 (3) The Legislature shall appropriate from the restricted account money to one or both
79 of the following:

80 (a) money to the commission for use by the commission to:

81 (i) improve safety consultation services available to Utah employers; or

82 (ii) provide for electronic or print media advertising campaigns designed to promote
83 workplace safety; and

84 (b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety
85 and Occupational Health Funding Program":

86 (i) to an institution within the state system of higher education, as defined in Section
87 53B-1-102; and

88 (ii) to be expended by an education and research center that is:

89 (A) affiliated with the institution described in Subsection (3)(b)(i); and

90 (B) designated as an education and research center by the National Institute for
91 Occupational Safety and Health.

92 (4) From money appropriated by the Legislature from the restricted account to the
93 commission for use by the commission, the commission may fund other safety programs or
94 initiatives recommended to it by its state workers' compensation advisory council created under

95 Section 34A-2-107.

96 (5) (a) The commission shall annually report to the governor, the Legislature, and its
97 state council regarding:

98 (i) the use of the money appropriated to the commission under Subsection (3) or (4);
99 and

100 (ii) the impact of the use of the money on the safety of Utah's workplaces.

101 (b) By no later than August 15 following a fiscal year in which an education and
102 research center receives money from an appropriation under Subsection (3)(b), the education
103 and research center shall report:

104 (i) to:

105 (A) the governor;

106 (B) the Legislature;

107 (C) the commission; and

108 (D) the state workers' compensation advisory council created under Section
109 34A-2-107; and

110 (ii) regarding:

111 (A) the use of the money appropriated under Subsection (3)(b); and

112 (B) the impact of the use of the money on the safety of Utah's workplaces.

113 (6) The money deposited in the restricted account:

114 (a) shall be:

115 (i) used only for the activities described in Subsection (3) or (4); and

116 (ii) expended according to processes that can be verified by audit; and

117 (b) may not be used by the commission for:

118 (i) administrative costs unrelated to the restricted account; or

119 (ii) any activity of the commission other than the activities of the commission
120 described in Subsection (3) or (4).

121 (7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year
122 an amount equal to 20% of the premium income remitted to the state treasurer pursuant to
123 Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous
124 fiscal year.

125 Section 3. Section **34A-2-702** is amended to read:

34A-2-702. Employers' Reinsurance Fund -- Injury causing death -- Burial expenses -- Payments to dependents.

(1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a payment for an industrial accident or occupational disease occurring on or before June 30, 1994. A payment made under this section shall be made in accordance with this chapter or Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability for an industrial accident or occupational disease occurring on or after July 1, 1994.

(b) The Employers' Reinsurance Fund succeeds to all money previously held in the "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

(c) The commissioner shall appoint an administrator of the Employers' Reinsurance Fund.

(d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

(e) The administrator shall make provisions for and direct a distribution from the Employers' Reinsurance Fund.

(f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees may be paid from the Employers' Reinsurance Fund.

(2) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Employers' Reinsurance Fund to ensure maximum investment return for both long and short term investments in accordance with Section 34A-2-706.

(3) (a) The administrator may employ, retain, or appoint counsel to represent the Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf of the Employers' Reinsurance Fund.

(b) If requested by the commission, the attorney general shall aid in representation of the Employers' Reinsurance Fund.

(4) The liability of the state, its departments, agencies, instrumentalities, elected or appointed officials, or other duly authorized agents, with respect to payment of compensation benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of

157 the Employers' Reinsurance Fund.

158 (5) (a) If injury causes death within a period of 312 weeks from the date of the
159 accident, the employer or insurance carrier shall pay:

160 (i) the burial expenses of the deceased as provided in Section 34A-2-418; and

161 (ii) benefits in the amount and to a person provided for in this Subsection (5).

162 (b) (i) If there is a wholly dependent person at the time of the death, the payment by the
163 employer or the employer's insurance carrier shall be:

164 (A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average
165 weekly wage at the time of the injury;

166 (B) not more than a maximum of 85% of the state average weekly wage at the time of
167 the injury per week; and

168 (C) (I) not less than a minimum of \$45 per week, plus:

169 (Aa) \$20 for a dependent spouse; and

170 (Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum
171 of four such dependent minor children; and

172 (II) not exceeding:

173 (Aa) the average weekly wage of the employee at the time of the injury; and

174 (Bb) 85% of the state average weekly wage at the time of the injury per week.

175 (ii) Compensation shall continue during dependency for the remainder of the period
176 between the date of the death and the expiration of 312 weeks after the date of the injury.

177 (iii) (A) The payment by the employer or the employer's insurance carrier to a wholly
178 dependent person during dependency following the expiration of the first 312-week period
179 described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the
180 wholly dependent person during the initial 312-week period, reduced by 50% of the federal
181 social security death benefits the wholly dependent person:

182 (I) is eligible to receive for a week as of the first day the employee is eligible to receive
183 a Social Security death benefit; and

184 (II) receives.

185 (B) An employer or the employer's insurance carrier may not reduce compensation
186 payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person
187 by an amount related to a cost-of-living increase to the social security death benefits that the

wholly dependent person is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a wholly dependent person whose compensation payable is reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(iv) The issue of dependency is subject to review at the end of the initial 312-week period and annually after the initial 312-week period. If in a review it is determined that, under the facts and circumstances existing at that time, the applicant is no longer a wholly dependent person, the applicant:

(A) may be considered a partly dependent or nondependent person; and

(B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

(c) (i) For purposes of a dependency determination, a surviving spouse of a deceased employee is conclusively presumed to be wholly dependent for a 312-week period from the date of death of the employee. This presumption does not apply after the initial 312-week period.

(ii) (A) In determining the annual income of the surviving spouse after the initial 312-week period, there shall be excluded 50% of a federal social security death benefit that the surviving spouse:

(I) is eligible to receive for a week as of the first day the surviving spouse is eligible to receive a Social Security death benefit; and

(II) receives.

(B) An employer or the employer's insurance carrier may not reduce compensation payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an amount related to a cost-of-living increase to the social security death benefits that the surviving spouse is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a surviving spouse whose compensation payable is reduced under this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(d) (i) If there is a partly dependent person at the time of the death, the payment shall be:

219 (A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average
220 weekly wage at the time of the injury;

221 (B) not more than a maximum of 85% of the state average weekly wage at the time of
222 the injury per week; and

223 (C) not less than a minimum of \$45 per week.

224 (ii) Compensation shall continue during dependency for the remainder of the period
225 between the date of death and the expiration of 312 weeks after the date of injury.

226 Compensation may not amount to more than a maximum of \$30,000.

227 (iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the
228 circumstances and conditions of dependency existing at the date of injury, and any amount paid
229 under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and
230 Chapter 3, Utah Occupational Disease Act.

231 (iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

232 (A) shall be determined in keeping with the circumstances and conditions of
233 dependency existing at the time of the dependency review; and

234 (B) may be paid in an amount not exceeding the maximum weekly rate that a partly
235 dependent person would receive if wholly dependent.

236 (v) A payment under this section shall be paid to a person during a person's
237 dependency by the employer or the employer's insurance carrier.

238 (e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a
239 partly dependent person at the time of death, the benefits may be apportioned in a manner
240 consistent with Section 34A-2-414.

241 (ii) The total benefits awarded to all parties concerned may not exceed the maximum
242 provided for by law.

243 (6) The Employers' Reinsurance Fund:

244 (a) shall be:

245 (i) used only in accordance with Subsection (1) for:

246 (A) the purpose of making a payment for an industrial accident or occupational disease
247 occurring on or before June 30, 1994, in accordance with this section and Section 34A-2-703;
248 and

249 (B) payment of:

- (I) reasonable costs of administering the Employers' Reinsurance Fund; or
(II) fees required to be paid by the Employers' Reinsurance Fund;
(ii) expended according to processes that can be verified by audit; and
(b) may not be used for:
(i) administrative costs unrelated to the Employers' Reinsurance Fund; or
(ii) an activity of the commission other than an activity described in Subsection (6)(a).
(7) (a) After the commissioner determines that all liabilities to be paid from the

Employers' Reinsurance Fund have been paid, the commissioner shall notify the Division of Finance.

(b) Upon notification from the commissioner in accordance with Subsection (7)(a), the Division of Finance shall transfer any residual assets in the Employers' Reinsurance Fund into the Uninsured Employers' Fund.

Section 4. Section **34A-2-704** is amended to read:

34A-2-704. Uninsured Employers' Fund.

(1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers' Fund has the purpose of assisting in the payment of workers' compensation benefits to a person entitled to the benefits, if:

(i) that person's employer:

(A) is individually, jointly, or severally liable to pay the benefits; and

(B) (I) becomes or is insolvent;

(II) appoints or has appointed a receiver; or

(III) otherwise does not have sufficient funds, insurance, sureties, or other security to cover workers' compensation liabilities; and

(ii) the employment relationship between that person and the person's employer is localized within the state as provided in Subsection (20).

(b) The Uninsured Employers' Fund succeeds to money previously held in the Default Indemnity Fund.

(c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational Disease Act, with the exception of a penalty on those obligations.

(2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured

281 Employers' Fund in accordance with this chapter[;] and Subsection 59-9-101(2)[, ~~and~~
282 ~~Subsection 34A-2-213(3)]~~.

283 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
284 Fund.

285 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

286 (ii) The administrator shall make provisions for and direct distribution from the
287 Uninsured Employers' Fund.

288 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
289 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
290 Employers' Fund.

291 (4) The state treasurer shall:

292 (a) receive workers' compensation premium assessments from the State Tax
293 Commission; and

294 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
295 both long and short term investments in accordance with Section 34A-2-706.

296 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
297 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
298 the Uninsured Employers' Fund.

299 (b) If requested by the commission, the following shall aid in the representation of the
300 Uninsured Employers' Fund:

301 (i) the attorney general; or

302 (ii) the city attorney, or county attorney of the locality in which:

303 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah
304 Occupational Disease Act, is pending;

305 (B) the employee resides; or

306 (C) an employer:

307 (I) resides; or

308 (II) is doing business.

309 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,
310 the administrator shall provide for the collection of money required to be deposited in the
311 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

(ii) To comply with Subsection (5)(c)(i), the administrator may:

(A) take appropriate action, including docketing an award in a manner consistent with Section 34A-2-212; and

(B) employ counsel and other personnel necessary to collect the money described in Subsection (5)(c)(i).

(6) To the extent of the compensation and other benefits paid or payable to or on behalf of an employee or the employee's dependents from the Uninsured Employers' Fund, the Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the employee or the employee's dependents against the employer failing to make the compensation payments.

(7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the Uninsured Employers' Fund.

(b) A court with jurisdiction shall grant a payment made under this section a priority equal to that to which the claimant would have been entitled in the absence of this section against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

(c) The expenses of the Uninsured Employers' Fund in handling a claim shall be accorded the same priority as the liquidator's expenses.

(8) (a) The administrator shall periodically file the information described in Subsection (8)(b) with the receiver, trustee, or liquidator of:

(i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

(ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a condition listed in Subsection (1)(a)(i)(B); or

(iii) an insolvent insurance carrier.

(b) The information required to be filed under Subsection (8)(a) is:

(i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

(ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

(c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers' Fund for claims against the assets of the employer that meets a condition listed in Subsection (1)(a)(i)(B).

(9) When an injury or death for which compensation is payable from the Uninsured

Employers' Fund has been caused by the wrongful act or neglect of another person not in the same employment, the Uninsured Employers' Fund has the same rights as allowed under Section 34A-2-106.

(10) The Uninsured Employers' Fund, subject to approval of the administrator, shall discharge its obligations by:

(a) adjusting its own claims; or

(b) contracting with an adjusting company, risk management company, insurance company, or other company that has expertise and capabilities in adjusting and paying workers' compensation claims.

(11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an administrative law judge, upon rendering a decision with respect to a claim for workers' compensation benefits in which an employer that meets a condition listed in Subsection (1)(a)(i)(B) is duly joined as a party, shall:

(i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

(ii) impose a penalty against the employer that meets a condition listed in Subsection (1)(a)(i)(B):

(A) of 15% of the value of the total award in connection with the claim; and

(B) that shall be deposited into the Uninsured Employers' Fund.

(b) An award under this Subsection (11) shall be collected by the administrator in accordance with Subsection (5)(c).

(12) The state, the commission, and the state treasurer, with respect to payment of compensation benefits, expenses, fees, or disbursement properly chargeable against the Uninsured Employers' Fund:

(a) are liable only to the assets in the Uninsured Employers' Fund; and

(b) are not otherwise in any way liable for the making of a payment.

(13) The commission may make reasonable rules for the processing and payment of a claim for compensation from the Uninsured Employers' Fund.

(14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'

374 Fund may assess all other self-insured employers amounts necessary to pay:

375 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
376 in Subsection (1)(a)(i)(B) occurring;

377 (B) the expenses of handling covered a claim subsequent to a condition listed in
378 Subsection (1)(a)(i)(B) occurring;

379 (C) the cost of an examination under Subsection (15); and

380 (D) other expenses authorized by this section.

381 (ii) This Subsection (14) applies to benefits paid to an employee of:

382 (A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition
383 listed in Subsection (1)(a)(i)(B); or

384 (B) if the self-insured employer that meets a condition described in Subsection
385 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
386 mutual.

387 (b) The assessments of a self-insured employer shall be in the proportion that the
388 manual premium of the self-insured employer for the preceding calendar year bears to the
389 manual premium of all self-insured employers for the preceding calendar year.

390 (c) A self-insured employer shall be notified of the self-insured employer's assessment
391 not later than 30 days before the day on which the assessment is due.

392 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
393 2% of that self-insured employer's manual premium for the preceding calendar year.

394 (ii) If the maximum assessment does not provide in a year an amount sufficient to
395 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured
396 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be
397 paid as soon as money becomes available.

398 (e) A self-insured employer is liable under this section for a period not to exceed three
399 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
400 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
401 Subsection (1)(a)(i)(B).

402 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
403 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
404 (1)(a)(i)(B) occurred before July 1, 1986.

(15) (a) The following shall notify the division of any information indicating that any of the following may be insolvent or in a financial condition hazardous to its employees or the public:

(i) a self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) Upon receipt of the notification described in Subsection (15)(a) and with good cause appearing, the division may order an examination of:

(i) that self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency mutual.

(c) The cost of the examination ordered under Subsection (15)(b) shall be assessed against all self-insured employers as provided in Subsection (14).

(d) The results of the examination ordered under Subsection (15)(b) shall be kept confidential.

(16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on behalf of the employee to whom or to whose dependents compensation and other benefits are paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or other party in interest objecting to the claim.

(b) A claim described in Subsection (16)(a) is presumed to be valid up to the full amount of workers' compensation benefits claimed by the employee or the employee's dependents.

(c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative proceeding under the authority of the commission.

(17) A partner in a partnership or an owner of a sole proprietorship may not recover compensation or other benefits from the Uninsured Employers' Fund if:

(a) the person is not included as an employee under Subsection 34A-2-104(3); or

(b) the person is included as an employee under Subsection 34A-2-104(3), but:

(i) the person's employer fails to insure or otherwise provide adequate payment of direct compensation; and

(ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission

436 over which the person had or shared control or responsibility.

437 (18) A director or officer of a corporation may not recover compensation or other
438 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
439 coverage under Subsection 34A-2-104(4).

440 (19) The Uninsured Employers' Fund:

441 (a) shall be:

442 (i) used in accordance with this section only for:

443 (A) the purpose of assisting in the payment of workers' compensation benefits in
444 accordance with Subsection (1); and

445 (B) in accordance with Subsection (3), payment of:

446 (I) reasonable costs of administering the Uninsured Employers' Fund; or

447 (II) fees required to be paid by the Uninsured Employers' Fund; and

448 (ii) expended according to processes that can be verified by audit; and

449 (b) may not be used for:

450 (i) administrative costs unrelated to the Uninsured Employers' Fund; or

451 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

452 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
453 state if:

454 (i) (A) the employer who is liable for the benefits has a business premise in the state;

455 and

456 (B) (I) the contract for hire is entered into in the state; or

457 (II) the employee regularly performs work duties in the state for the employer who is
458 liable for the benefits; or

459 (ii) the employee is:

460 (A) a resident of the state; and

461 (B) regularly performs work duties in the state for the employer who is liable for the
462 benefits.

463 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
464 commission shall by rule define what constitutes regularly performing work duties in the state.